



**COMMITTEE ON CORRECTIONS  
AND COMMUNITY REENTRY**

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November 7, 2014

Hon. Andrew M. Cuomo  
New York State Governor  
State Capitol  
Executive Chamber  
Albany, NY 12224

**Re: Opposition to S.4928-B (Sen. Nozzolio) / A.7333-B (AM Lentol),  
which would provide Queens County with jurisdiction for cases  
arising from Rikers Island facilities**

Dear Governor Cuomo:

On behalf of the Corrections and Community Reentry Committee of the New York City Bar Association (the "Association"), we write to recommend that you veto the above legislation, which would strip the Bronx County District Attorney of jurisdiction over criminal cases arising from Rikers Island. Instead, the legislation would transfer jurisdiction for offenses committed at Rikers Island exclusively to the Queens County District Attorney. The Association opposes this bill because it raises serious state constitutional questions and would undermine the prosecutorial discretion and independence of New York City's District Attorneys. Indeed, this bill is opposed by both the Queens and the Bronx District Attorneys, as well as by the District Attorneys Association of the State of New York.

The Association is an independent, non-governmental organization of 24,000 lawyers, law professors, and government officials from the United States and 50 other countries. Throughout its 144-year history, the Association has consistently advocated for a fair, just, and efficient judicial process and respect for the rule of law.

Rikers Island is within Bronx County. Accordingly, the Bronx County District Attorney prosecutes most crimes committed on Rikers Island. However, current law does not limit prosecutorial jurisdiction to the Bronx. For example, now, the Attorney General may prosecute corruption cases arising from Rikers Island, and local prosecutors in other jurisdictions may prosecute cases when offenses committed at Rikers Island implicate their jurisdiction.

The proposed law, however, would amend subdivision 4 of section 20.40 of the Criminal Procedure Law by adding a new subdivision (n), which would read, "[a]n offense committed at Rikers Island facilities shall be prosecuted by Queens County." This would require the Queens County District Attorney to prosecute all offenses committed at Rikers Island facilities and bar other local prosecutors and the Attorney General from doing so. The Bronx County District

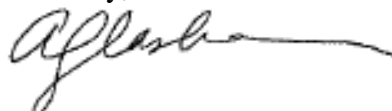
Attorney would be deprived of the ability to prosecute crimes committed in the county he or she was elected to represent.

This jurisdiction stripping raises serious state constitutional questions. The New York State Constitution requires that every county elect a district attorney to prosecute crimes within that county.<sup>1</sup> The governor may remove any district attorney who fails to faithfully prosecute people within his or her jurisdiction.<sup>2</sup> New York State County Law also dictates that, with certain exceptions, every district attorney shall prosecute all crimes cognizable by the courts of the county in which the district attorney was elected or appointed.<sup>3</sup> The proposed legislation appears in conflict with these constitutional and statutory provisions.

The only justification presented in the bill for the legislation is that it would “provide cost savings and management efficiencies for New York City.” This reason is not convincing. As noted in the letter of opposition from the City Of New York, “the City does not anticipate that it would realize any savings from the proposed law.” The impetus for the bill is, at best, unclear and, at worst, subject to interpretation that some believe it would be preferable to have these cases tried not in Bronx County but in another jurisdiction where perhaps greater prosecutorial leniency will be exercised. There is no real justification given for what may well be unconstitutional tampering with jurisdictional boundaries.

In addition to the Queens District Attorney, the Bronx District Attorney, and the District Attorneys Association, this bill is opposed by the City of New York, the NYCLU and The Legal Aid Society. We join in urging that you veto S.4928-B/A.7333-B.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Allegra Glashausser', with a long horizontal flourish extending to the right.

Allegra Glashausser

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<sup>1</sup> N.Y. Const. Art. XIII, § 13.

<sup>2</sup> N.Y. Const. XIII, § 13 (b).

<sup>3</sup> Cty. L. § 700(1).